

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of the Failure of JTC Oil, Inc.        )  
("Operator") to Comply with K.A.R. 82-3-407 at       )  
the Day C #OW 10 W, Day J #OW 6 W, Day J        )  
#OW 11 W, Cook #2W, Cook #39W, and Cook        )  
#W-50 in Linn and Miami County, Kansas.        )  
Docket No.: 17-CONS-3680-CPEN  
CONSERVATION DIVISION  
License No.: 32834

**PRE-FILED DIRECT TESTIMONY OF THOMAS J. CAIN**

**I. BACKGROUND INFORMATION AND QUALIFICATIONS**

Q. STATE YOUR NAME AND BUSINESS ADDRESS FOR THE RECORD.

A. My name is Thomas J. Cain. My business address is JTC Oil, Inc., 35790 Plum Creek Rd.,  
Osawatomie, KS 66064.

Q. WHAT IS YOUR OCCUPATION?

A. I am self employed as an owner and officer of JTC Oil, Inc. ("JTC") which owns and operates  
oil and gas leases in eastern Kansas. JTC is also an oil and gas service company, that provides  
drilling, pulling, plugging and other related services to numerous oil and gas operators in  
eastern Kansas.

**II. OWNERSHIP HISTORY OF THE SUBJECT WELLS**

Q. WHEN DID JTC FIRST ACCEPT RESPONSIBILITY FOR THE WELLS WHICH ARE  
THE SUBJECT OF THIS DOCKET?

A. Well responsibility was transferred to JTC for the subject wells on December 1, 2016, and  
JTC officially took over physical control of the wells on January 1, 2017.

Q. WERE THE SUBJECT WELLS ACQUIRED AS PART OF A LARGER GROUP OR  
PACKAGE OF LEASES?

1 A. Yes. JTC purchased a total of seven oil and gas leases as part of the transaction in which the  
2 subject wells were assigned to JTC. Three of the leases contained within said package of  
3 leases i.e. the Chism, Cook and Day Leases were inactive at the time JTC acquired said leases.  
4 The six wells which are the subject of this Docket are located upon the Cook and Day Leases.  
5 Both the Cook and the Day Leases had been inactive a long time when said leases were  
6 assigned to JTC.

7 Q. HAS JTC EVER PRODUCED FROM, OPERATED, OR OTHERWISE USED EITHER THE  
8 COOK OR THE DAY LEASES IN ANYWAY?

9 A. No. The Cook and the Day leases were both inactive when said leases were assigned to JTC,  
10 and said leases have remained inactive at all times since JTC acquired them.

11 Q. WHEN JTC ACQUIRED THE COOK AND THE DAY LEASES DID JTC RECEIVE  
12 LEASE FILES FOR SAID LEASES, OR LEASE MAPS?

13 A. No. There were no well maps for the Cook and the Day Leases in the documents JTC received  
14 as part of said transaction and there was very little information related to these two leases in  
15 general contained in said documents. I contacted a prior owner of the Cook and the Day leases  
16 in an effort to obtain maps and well files for the Cook and the Day leases on multiple  
17 occasions but I still have not received such documents and files.

18 **III. FAILURE TO COMPLETE MECHANICAL INTEGRITY TEST**

19 Q. DID JTC CONDUCT A SUCCESSFUL MECHANICAL INTEGRITY TEST ("MIT) ON  
20 THE SIX WELLS WHICH ARE THE SUBJECT OF THIS DOCKET ON OR BEFORE  
21 APRIL 27, 2017?

22 A. No. When JTC accepted responsibility for the Cook and the Day Leases no information was

1 provided relating to when the prior MIT's were performed on the subject wells and when the  
2 next MIT's were due. Therefore, JTC was not aware that MIT's for the subject wells were due  
3 on April 27, 2017. At that time I was still in regular communication with a prior owner of said  
4 leases and was being told that said prior owner would gather the well files and provide them  
5 to JTC.

6 Q. WERE THE SIX WELLS WHICH ARE THE SUBJECT OF THIS DOCKET BEING USED  
7 ON APRIL 27, 2017, FOR INJECTION OR DISPOSAL?

8 A. No, the subject wells had been inactive quite awhile before JTC acquired them and JTC has  
9 never used any of the wells located on the Cook or the Day Leases including the wells which  
10 are the subject of this Docket.

11 **III. JTC'S ATTEMPTS TO COMPLY WITH KCC STAFF'S DEMANDS**

12 Q. DID JTC RECEIVE A NOTICE OF VIOLATION FROM KCC STAFF INFORMING JTC  
13 THAT MIT'S HAD NOT BEEN COMPLETED FOR THE SIX WELLS WHICH ARE THE  
14 SUBJECT OF THIS DOCKET?

15 A. Yes. JTC received a notice of violation dated May 16, 2017 (the "NOV") from KCC staff  
16 indicating that MIT's had not been conducted on nine (9) wells, i.e. the six wells which are the  
17 subject of this Docket and three wells which were located on the Chism Lease which was also  
18 part of the package of leases purchased by JTC effective December 1, 2016. All nine of these  
19 wells had been inactive since JTC accepted responsibility for such wells.

20 Q. WHAT DID JTC DO UPON RECEIVING THE NOV?

21 A. I immediately contacted KCC staff to inform them that JTC intended to MIT the nine (9) wells  
22 listed in the NOV prior to the May 30, 2017, deadline set forth in the NOV and explained the

1 circumstances leading up to the violation. During said conversation I also scheduled a date  
2 with KCC Staff on which the MIT's could be performed. Pursuant to my conversation with  
3 KCC staff, JTC crew and equipment arrived at the Cook, Day and Chism Leases on May 25,  
4 2017(all three leases are located in very close proximity to one another). However, JTC's crew  
5 was unable to locate the six wells which are the subject of this Docket so KCC staff was asked  
6 to assist in locating these wells so that JTC could MIT said wells. KCC staff members Taylor  
7 Herman and Levi Short assisted JTC's crew in searching for the six wells which are the subject  
8 of this Docket on May 25, 2017, however, the wells were not located even with the help of  
9 KCC staff. During the search for said wells it began raining and JTC's crew decided with KCC  
10 staff members Taylor Herman and Levi Short to return another day to continue the search for  
11 said wells once soil conditions were dry enough to access the wells if they were located. JTC's  
12 crew was able to locate the three wells located on the Chism lease which were listed in the  
13 NOV and conducted successful MIT's on said wells on May 25, 2017.

14 Q. DID JTC RECEIVE ANY FURTHER COMMUNICATION FROM KCC STAFF BEFORE  
15 THE PENALTY ORDERS WERE ISSUED WHICH ARE THE SUBJECT OF THIS  
16 DOCKET?

17 A. No. The next thing JTC received from KCC staff after May 25, 2017, were the six penalty  
18 orders which are the subject of this Docket.

19 Q. WHAT DID JTC DO AFTER RECEIVING THE SIX PENALTIES WHICH ARE THE  
20 SUBJECT OF THIS DOCKET?

21 A. I immediately called KCC staff member Levi Short to remind him that we were unable to  
22 locate the six wells on May 25, 2017, even with he and Taylor Herman's assistance. Levi Short

1 indicated that he had been back to the Day and the Cook leases and located the six wells  
2 which are the subject of this Docket and that the had GPS coordinates for said wells. Levi  
3 provided the GPS coordinates to me, however this was the first time I learned that the subject  
4 wells had been located.

5 Q. WHAT DID YOU DO AFTER RECEIVING THE GPS COORDINATES FOR THE  
6 SUBJECT WELLS FROM LEVI SHORT?

7 A. I went to the Cook and the Day leases with a GPS to see if I could physically locate said wells  
8 using the coordinates provided by Levi Short. I was able to locate all six of the subject wells  
9 using the provided GPS coordinates, however all six of said wells were situated in crop fields  
10 that had already been planted and there were no roads to access such wells. I then went to visit  
11 with the farmer who owned the crops located in those fields to explain the need to access such  
12 wells. The farmer asked if we could wait until his crops were harvested before accessing the  
13 wells in order to avoid unnecessarily destroying his crops. I explained to him that JTC had no  
14 intention of operating such wells and that they were going to be MIT'd immediately to comply  
15 with KCC staff's demands and subsequently plugged as soon as a crew was available plug  
16 them. I further explained that JTC had no objection to waiting until his crops were harvested  
17 to plug the wells however JTC would need to consult with the KCC to see if they would allow  
18 JTC to wait until the crops were harvested before conducting MIT's or plugging the wells.

19 Q. DID JTC CONTACT KCC STAFF TO ASK IF JTC COULD BE PERMITTED TO HONOR  
20 THE LANDOWNER'S REQUEST TO WAIT UNTIL THE CROPS WERE HARVESTED  
21 BEFORE CONDUCTING MIT'S OR PLUGGING THE SUBJECT WELLS?

22 A. Yes, JTC reached out to KCC legal staff through its attorney and explained the facts leading

up to the alleged violation and further explained that, none of the six wells which are the subject of this Docket were active. It was further explained to KCC legal staff that JTC had no intention of utilizing the six wells which are the subject of this Docket and that it would make more sense to simply allow JTC to plug the subject wells as opposed to wasting time and resources to MIT the wells before plugging them. KCC legal staff was also informed that the subject wells were situated in planted crop fields with no road access to said wells, and that the owner of the crops had made a request that no operations be conducted on said wells until his crops were harvested.

Q. DID KCC STAFF PERMIT JTC TO HONOR THE LANDOWNER'S REQUEST TO WAIT UNTIL THE CROPS WERE HARVESTED BEFORE CONDUCTING MIT'S OR PLUGGING THE SUBJECT WELLS?

A. No. After being informed of JTC's good faith efforts to comply with KCC staff's demands, KCC legal staff informed JTC that they would **NOT** recommend the penalties issued in this Docket be waived or rescinded even if the wells were plugged or MIT'd. Therefore, it made no difference whether JTC waited for the crops to be harvested before conducting such operations on the subject wells or not.

**IV. THE CURRENT STATUS OF THE WELLS**

Q. WHAT IS THE CURRENT STATUS OF THE SIX WELLS WHICH ARE THE SUBJECT OF THIS DOCKET?

A. The subject wells were inactive and the leases upon which they were located were not being operated therefore no risk of spill or other adverse environmental impact was present. In addition, KCC legal staff had informed JTC that the penalties which are the subject of this

1 Docket would not be waived or rescinded regardless of when the subject wells were plugged  
2 or MIT'd. Therefore, based upon these to considerations JTC elected to honor the landowner's  
3 request to wait until the crops had been harvested before conducting operations on the subject  
4 wells. The field containing two of the subject wells was harvested during the week of  
5 November 6, 2017, and JTC promptly plugged said wells in accordance with KCC regulations  
6 during that same week. The fields containing the remaining wells were harvested during the  
7 week of November 13, 2017 and JTC promptly plugged the remaining four wells during said  
8 week, and also plugged three additional wells located in such fields during such week as well.  
9 Therefore, all six wells which are the subject of this Docket have been plugged by JTC in  
10 accordance with KCC rules and regulations.

11 Q. ARE THERE OTHER WELLS LOCATED ON THE COOK AND THE DAY LEASES IN  
12 ADDITION OF THE SIX WELLS WHICH ARE THE SUBJECT OF THIS DOCKET?

13 A. Yes. There are approximately 16 total wells located on the Day lease and approximately 21  
14 total wells located on the Cook lease.

15 Q. WHAT DOES JTC PLAN TO DO WITH THE OTHER WELLS LOCATED ON THE COOK  
16 AND THE DAY LEASES?

17 A. JTC has decided to plug all 37 of the wells located on both the Cook and the Day lease. JTC  
18 has already plugged nine of such wells. JTC does not wish to contest responsibility for these  
19 wells (although certain legal arguments are available for JTC to do so) and instead plans to  
20 plug the remaining 28 wells at its own cost and expense.

21 V. NO TECHNICAL VIOLATION OF K.A.R. 82-3-407 OCCURRED AND THE PENALTY IS  
22 UNREASONABLE

23 Q. DO YOU BELIEVE JTC VIOLATED K.A.R. 82-3-407 BY FAILING TO TIMELY MIT

1 THE WELLS WHICH ARE THE SUBJECT OF THIS DOCKET?

2 A. No I do not. K.A.R. 82-3-407 only requires MIT's to be performed on "injection wells."

3 K.A.R. 82-3-101(81)(G) clearly defines an "injection well" as follows,

4 "Injection well" means a well that **is used** for any of the following:

5 (i) To inject brine or other fluids that are brought to the surface in  
6 connection with natural gas storage operations or oil or natural gas  
7 production and that may be commingled with waste waters from gas  
8 plants that are an integral part of production operations, unless those  
9 waste waters are classified as a hazardous waste at the time of  
10 injection;

11 (ii) to conduct enhanced recovery operations for oil or natural gas;

12 (iii) to store hydrocarbons that are liquid at standard temperature and  
13 pressure;

14 (iv) to conduct simultaneous injection operations; or

15 (v) to inject permitted fluids.

16 The wells which are the subject of this Docket were not being used for any of the purposes  
17 listed in K.A.R. 82-3-101(81)(G) and therefore were not "injection wells" as that term has  
18 been defined by the KCC on April 27, 2017. The wells which are the subject of this Docket  
19 were at one time "injection wells" however at all times that JTC has been responsible for said  
20 wells they were simply inactive "wells" that were not used for any purpose, therefore, the  
21 provisions of K.A.R. 82-3-407 were not applicable to such wells.

22 Q. ARE THERE ANY OTHER REASONS WHY THE PENALTIES ASSESSED IN THIS  
23 DOCKET SHOULD NOT BE IMPOSED BY THE KCC?

24 A. Yes. JTC's primary argument in this Docket is that the penalty assessed is not reasonable in  
25 light of the facts and circumstances surrounding the alleged violation. The evidence clearly  
26 shows that JTC made reasonable efforts to comply with KCC regulations as well as to respect  
27 the rights of the owner of the land upon which wells were located. The evidence further shows  
28 that the alleged violations in this Docket occurred because the subject wells were not active



1 and could not be located in time to MIT the subject wells within the time period set forth in  
2 the NOV letter despite JTC's best efforts and the assistance of KCC staff to locate the wells.  
3 It is also undisputed that the subject wells have never been used by JTC and that no fluid was  
4 injected or disposed of into any of the subject wells either before or after the MIT's allegedly  
5 became due and that said wells have been plugged by JTC. Stated very simply, JTC has  
6 accepted responsibility for the subject wells despite never having operated them and has  
7 already plugged all six of such wells, thus why should JTC also be penalized \$6,000 because  
8 it could not locate these inactive wells in time to MIT them before they were plugged? The  
9 goal of a reasonable penalty is to promote compliance with regulations, not to penalize  
10 operators when technical compliance is made impossible by circumstances beyond the  
11 operators reasonable control.

12 Q. DOES THIS COMPLETE YOUR TESTIMONY TO THE COMMISSION?

13 A. Yes.

**VERIFICATION**

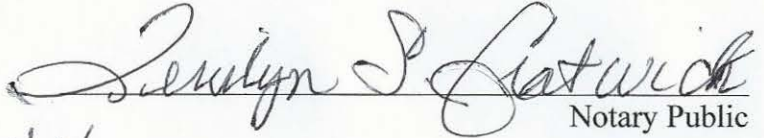
STATE OF KANSAS            )  
  ) ss:  
COUNTY OF MIAMI         )

Thomas J. Cain, being duly sworn upon his oath, deposes and states that he is President of JTC Oil, Inc.; that he has read and is familiar with the foregoing testimony filed herewith; and that the statements made therein are true to the best of his knowledge, information, and belief.



\_\_\_\_\_  
Thomas J. Cain

SUBSCRIBED AND SWORN to before me this 17 day of November, 2017.

  
Notary Public

Commission/Appointment Expires:

5/4/20



## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing was sent via U. S. Mail, postage prepaid, hand-delivery, or electronically, this 17<sup>th</sup> day of November, 2017, addressed to:

Jonathan R. Myers  
Litigation Counsel  
Kansas Corporation Commission  
Conservation Division  
266 N. Main St., Ste. 220  
Wichita, Kansas 67202-1513



Keith A. Brock